

Message Text

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ACTION ARA-10

INFO OCT-01 ISO-00 AID-05 CIAE-00 COME-00 EB-07 FRB-01

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EO 11652: N/A

TAGS: EMIN, JM

SUBJECT: BAUXITE DEVELOPMENTS: REVERE, ALCOA, REYNOLDS,
KAISER JANUARY 15 AND 16.

REF KINGSTON 199, KINGSTON 31

1. REVERE

A) ACCORDING TO PRESS REPORTS, REVERE JAMAICA ALMMINA LTD. FILED A WRIT IN JAMAICAN SUPREME COURT AGAINST ATTORNEY-GENERAL OF JAMAICA, MINISTER OF MINING, AND COLLECTOR-GENERAL ASKING THE COURT FOR AN ORDER TO RESTRAIN THESE DEFENDANTS FROM COLLECTING THE BAUXITE LEVY FROM PLAINTIFFS. AN APPLICATION FOR AN INTERIM INJUNCTION TO RESTRAIN THREE DEFENDANTS WILL BE HEARD BY JUDGE IN CHAMBERS ON FEBRUARY 9.

B) ATTORNEY-GENERAL SUED PURSUANT TO CORWN PROCEEDINGS ACT OF 1958 WHILE MINISTER OF MINING AND COLLECTOR-GENERAL SUED IN THEIR PERSONAL CAPACITIES. REVERE'S STATEMENT OF CLAIM NOTED (IN AGREEMENT DATED MARCH 10, 1967 BETWEEN PLAINTIFFS AND GOJ) THAT GOJ HAD AGREED THE RATE OF INCOME TAX APPLICABLE
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TO PLAINTIFFS SHOULD BE RATE ORDINARILY APPLICABLE IN JAMAICA

AND THAT NO OTHER SPECIAL TAXATION SHOULD BE IMPOSED. IN SAME AGREEMENT, GOJ ALSO AGREED THAT NO FURTHER TAXES, BURDENS LEVIES, EXCISE, CUSTOMS OR ROYALTIES WOULD BE IMPOSED. STATEMENT OF CLAIM STATES MINING (AMENDMENT) ACT 1974 WHICH ALLOWED PM TO IMPOSE BAUXITE LEVY IS ULTRA VIRES AND IN BREACH OF JAMAICAN CONSTITUTION

C) CLAIM FURTHER SAYS THAT IMPOSITION OF LEVY(WHICH INDICATED GOJ READINESS ABROGATE CONTRACTURAL RIGHTS OF INVESTORS), TOGETHER WITH DECLARED INTENTION OF GOJ ACQUIRE MAJORITY OWNER SHIP IN BAUXITE-ALUMINA COMPANIES, PRODUCED INTERNATIONAL INVESTMENT CLIMATE IN WHICH IT BECAME EXTREMELY DIFFICULT IF NOT IMPOSSIBLE TO INTEREST PRIVATE INVESTORS IN PARTICIPATING IN ESSENTIAL EXPANSION OF PLAINTIFFS' JAMAICA PLANT.

2. ALCOA, REYNOLDS, KAISER

A) ACCORDING TO JAN 16 DAILY NEWS ARTICLE, ALCOA INTENDS SUSPEND ITS ICSID APPLICATION FOR ARBITRATION BAUXITE LEVY. ALCOA AND GOJ, WHOSE REPS WERE NOT AVAILABLE TO PRESS FOR COMMENT, HAVE REPORTEDLY CONCLUDED CERTAIN AGREEMENTS CONCERNING OPERATIONS ALCOA JAMAICA. THIS INFORMATION BASED UPON JAN 15 COMMENTS OF ICSID SPOKESMAN IN WASHINGTON WHO SAID REPORTED REQUEST TO SUSPEND HEARINGS FROM ALCOA HAD NOT YET BEEN FORMERLY RECEIVED BY THE CENTER. ALCOA'S REPORTED INTENTION SUSPEND ITS REQUEST HAS COME TWO WEEKS BEFORE GOJ AND ALCOA ARE TO RESUME NEGOTIATIONS

B) ICSID SPOKESMAN (ACCORDING SAME PRESS STORY) ADDED THAT KAISER AND REYNOLDS WHICH HAD REQUESTED THE CENTER'S ARBITRATION HAVE ASKED FOR POST-PONEMENT OF HEARINGS ON THEIR APPLICATIONS UNTIL EARLY MARCH AND MID APRIL RESPECTIVELY GERARD

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